

DEPARTMENT OF THE
TRIAL COURT
HOLYOKE DIVISION
Docket No. 1017CR3184

COMMONWEALTH)
)
)
v.)
)
)
Jeffery Asher)
)

SENTENCING MEMORANDUM

On February 28, 2012, a jury of six men and women unanimously returned a verdict of Guilty on one count of Assault and Battery with a Dangerous Weapon and one count of Assault and Battery. The defendant is Jeffrey Asher, a former police officer for the City of Springfield. The victim of the assault is Melvin Jones. Sentencing was postponed until today in order for the court to be the beneficiary of a pre-sentence investigation report.

Given the verdict of the jury, I am now required to sentence the defendant according to the law. The Legislature has set out the parameters for which this sentence must fit within ranging from straight probation up to and including incarceration in the House of Corrections for up to 2 and ½ years on each count

It has been said many times that there are several goals of sentencing such as to protect the public from future harm, to punish the defendant for breaking the law; to reflect the seriousness of the offense; to rehabilitate the defendant, and to deter others from breaking the law in the future.

It is my responsibility to try to balance those differing goals with each other to render a sentence that does justice for the defendant, the victim, and society as a whole. This is not often

an easy task and I can say in this particular case, it has been a long struggle and a difficult process to determine what justice requires and demands in this instance.

When the defendant Jeffrey Asher became a member of the Springfield Police Department, he took an oath to "protect and serve" ALL citizens of the Commonwealth. This, too, is not often an easy task and yet one that is taken on by members of law enforcement here in the Commonwealth and nationwide. They take this oath seriously and make great personal sacrifices to protect the public from harm and to ensure that the laws of the Commonwealth are upheld. Without a doubt, the job of a police officer is no easy task.

On November 27, 2009, the defendant dressed as a member of the Springfield Police Department, but clearly as evidenced by the unanimous verdict of his peers, he did not uphold his oath to "protect and serve." Instead, his actions as clearly evidenced by the facts of trial and the verdict of the jury, shows that he did just the opposite. In short, he committed the criminal acts of assault and battery and assault and battery with a dangerous weapon, causing serious and permanent injuries to the victim.

In mitigation of his actions, I have read countless letters of support from the defendant's family, friends, and community all of whom portray an individual best described as a family man, a protector of the Country having served active military duty, and a reliable and trustworthy friend. I have read all of these letters, many letters I have read more than once and have seen glimpses of an individual who has done many kind acts for family, friends, and total strangers with nothing in return. In short, both defense counsel and the letters aptly point out to many positive attributes of Jeffrey Asher's personality. And, I would also note that the defendant comes before the court with no criminal history, this being his only conviction on his record.

The court is not unmindful of the fact that unlike the defendant, that the victim, Melvin Jones, had a significant criminal history of serious offenses. The prosecutor characterized the victim as not being an "angel" and surely that can be agreed. However, it is important to note that not one of the Springfield Police Officers, including the defendant Jeffrey Asher, had any knowledge whatsoever of this fact prior to acting in the manner that they did. To the defendant, and his fellow officers, this was a stop for a civil motor vehicle infraction in which an unknown individual attempted to escape a pat frisk. That is all of the information that they were armed with. Period.

Second, I have received scores of letters from supporters of the defendant, in essence asking me to weigh the fact that, in so many words, Melvin Jones was not a contributing member of society, while Jeffrey Asher was a Marine, an Officer, and a family man. It would be inappropriate for me to take this into consideration as it somehow would suggest that the laws that everyone are required to uphold apply in different degrees based upon the "value" of the victim or the defendant. Our system of justice simply cannot tolerate this attitude.

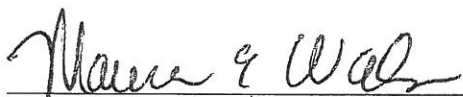
Instead, the focus is and should be on the defendant, Jeffrey Asher. This record evidence is that the defendant, while in full uniform symbolizing our very system of laws and order,

inflicted serious and permanent injury to an unarmed individual. The unanimous verdict of six members of the community rejected any claim of justification or defense of self or others. His force was not reasonable said the jury—it was excessive and it was criminal. The crimes committed were severe and serious and I must take that into consideration.

Based upon all of the relevant factors, I hereby sentence the defendant Jeffery Asher to the following:

Count I—Assault and Battery: 1 year to the House of Correction to be served direct (concurrent with Count II)

Count II—Assault and Battery with a Dangerous Weapon: 2 and ½ years to the House of Correction; 18 months direct balance suspended for 2 years; Mental Health Evaluation and Treatment if deemed necessary; Anger Management Evaluation and Treatment if deemed necessary; and the continuance of PTSD counseling. A mandatory 90 Victim Witness Fee Assessment and a monthly Probation Supervision of \$65 is required.



Maureen E. Walsh
Presiding Justice
Holyoke District Court

March 28, 2012